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| 10/768,405  | 01/30/2004  | Nir Kol              | 14413-039001 /<br>2003P00302 | 3786             |
| 54975 7590 08/19/2008<br>HOLLAND & KNIGHT LLP<br>10 ST. JAMES AVENUE<br>11th Floor<br>BOSTON, MA 02116-3889 |             |                      |                              |                  |
| EXAMINER<br>ABDELSALAM, FATHI K   |             |                      |                              |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/768,405

**Applicant(s)**

KOL ET AL.

**Examiner**

Fathi Abdelsalam

**Art Unit**

4176

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01/30/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_

### **DETAILED ACTION**

1. This action is a non-final, first office action on the merits in response to applicant's communication filed on 1/30/2004, wherein claims 1-18 are currently pending.

#### ***Priority***

2. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in:

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-7 and 14-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Sanches (US PG PUB 2003/0018510).

5. Regarding **Claim 1**:

Sanches discloses a method of facilitating enterprise change comprising:  
treating two or more information systems as a single logical information system to execute pre-change due diligence and post-change integration of an enterprise change, wherein the enterprise change is at least one of a merger and acquisition ([0062], "One exemplary use of MECA is the integration of mergers and acquisitions.");  
See Also ([0030],

"The present invention manages the deployment, execution, and tracking of initiatives. "Initiatives" means coordinated non-routine efforts of large number of individuals and entities (up to many thousands or even more), for example, in an extended organization. Examples include, without limitation, regulatory compliance initiative, institution of new policies or practices, retraining projects, product launches, mergers and acquisitions"); and  
providing a user interface to allow a user to conduct a synergy realization ([0055],  
"MECA, in one embodiment of the present invention, is an integrated, Web-based platform designed to manage all facets of initiative execution. Executive teams can simultaneously manage any number of critical

initiatives, of any size. Via MECA's easy-to-use Web interface, users create, browse and manage action plans, team structures, and reports.”)

6. Regarding **Claim 2**:

Sanches discloses the method of claim 1 further comprising allowing the user to conduct a merger-related activity ([0058],

“In mergers and other large scale initiatives, entire groups of employees must be mobilized for specific activities. MECA allows managers to target action items specifically for particular roles”); with

at least one of a software task, a software technique, and a software interface ([0033], “In one embodiment, the present invention provides MECA (Managed Enterprise Communications Command and Control Architecture), implemented by a hosted software tool that allows management to direct and measure the success of acquisitions and other high value, large scale initiatives); wherein,

the software interface includes a graphical user interface. ([0104], “MECA graphically displays Action status, progress and consolidated results to management, in real-time.)

7. Regarding **Claim 3**:

Sanches discloses a method comprising:

generating a single logical physically distributed information system across one or more information systems of at least two enterprises, wherein the enterprises are being combined; and providing a user interface to access the single logical physically distributed information system, the single logical physically distributed information system executing one or more pre -merger activities, merger activities, and post -merger activities, the merger activities including a synergy realization. ([0050],

"In one embodiment, MECA is a hosted application designed to accelerate and simplify execution of enterprise-wide complex initiatives such as launching new products, company re-organizations and mergers and acquisitions.")

See also ([0051], "MECA tightly integrates all five key components of enterprise-wide action: (1) Planning; (2) Organization; (3) Communication; (4) Performance; and (5) Tracking").

8. Regarding **Claim 4**:

Sanches discloses the method of claim 3 wherein the user interface is adapted to at least one of a role of the user and a phase of the merger, the user role including a role of a merger member ([0015], "FIG. 3 is a table illustrating the roles of business and technical users.") See also ([0058], "In mergers and other large scale initiatives, entire groups of employees must be mobilized for specific activities. MECA allows managers to target action items specifically for particular roles, ad-hoc groups or whole categories of employees, based on roles and profile information.")

9. Regarding **Claim 5**:

Sanches discloses a system for implementing a merger of at least two organizations, the system comprising a software product ([0033],

"In one embodiment, the present invention provides MECA (Managed Enterprise Communications Command and Control Architecture), implemented by a hosted software tool that allows management to direct and measure the success of acquisitions and other high value, large scale initiatives"); and

an interface for a user to edit synergy information for at least one of the organizations ([0055], Via MECA's easy-to-use Web interface, users create, browse and manage action plans, team structures, and reports). See also ([0198], "action participants 30 can initiate, perform, or update action Items by either electronic or traditional communications"), pertaining to updating (i.e. editing) action items.

10. Regarding **Claim 6**:

Sanches discloses the system of claim 5 wherein the software product comprises reference modules adapted for merger teams, the reference modules including checklists, deliverables, project plans, tasks, resources, and assignments. See Figure 5, displaying the various modular phases and list therein of the change management initiatives. See also paragraph [0236].

11. Regarding **Claim 7**:

Sanches discloses the system of claim 5, wherein the interface comprises information for a financial impact, an indicator of a priority level for an issue, a scale of measurement for synergy realization, and a selector for approval of one or more synergies and one or more risks ([0155],

"MECA is used when the value of compliance can be at least roughly quantified, and where compliance in the action is potentially as important to the organization as compliance with other mandatory systems for financial reporting, HR and account management.")

See also ([0059],

"In preparing MECA for action, in one embodiment, managers use MECA Web interface to define: team structures; action plans (can also import from MS Project or other project planning tool); notifications and key communications; interactive action items; performance metrics and other business rules.")

And see also, ([0037],

"As the strategic benefit, MECA maximizes and accelerates returns from strategic initiatives. In post-merger integration, for example, MECA enables management to achieve more revenue and cost synergy targets, and to achieve them more rapidly, predictably, and completely.")



12. Regarding **Claims 14-16**:

Sanches discloses a system for planning a merger of at least two organizations ([0062], "One exemplary use of MECA is the integration of mergers and acquisitions"); And See Also ([0055],

"MECA, in one embodiment of the present invention, is an integrated, Web-based platform designed to manage all facets of initiative execution. Executive teams can simultaneously manage any number of critical initiatives, of any size. Via MECA's easy-to-use Web interface, users create, browse and manage action plans, team structures, and reports.");

the system comprising one or more synergy-related interfaces presenting at least one of merger financial information, a merger risk, a description of a merger risk, a description of a synergy, a log of a plurality of merger actions, and an interface for one or more user actions related to the merger ([0037],

MECA enables management to achieve more revenue and cost synergy targets");

wherein the merger financial information comprises a budget ([0268], "Budget. An acquisition is a planned, budgeted action designed to capture an opportunity and that, by definition, the acquiring company can afford"), a return on investment, a cost savings, an estimated impact, an actual impact, and financial resources ([0155],

"MECA is used when the value of compliance can be at least roughly quantified, and where compliance in the action is potentially as important to the organization as compliance with other mandatory systems for financial reporting, HR and account management")

wherein the one or more user actions comprise an approval action, a rejection ([0320], "task 210 he may accept or reject") action ([Abstract], "generating an action plan including action items to accomplish the initiative tasks;"), a cancellation action ([0058], "As roles change, MECA automatically initiates, cancels or retargets action items and communications."), and a storing action ([0011], "an action management database for storing a dynamically generated organizational model").

13. Regarding **Claims 17-18**:

Sanches discloses a system for planning a merger of at least two organizations ([0062], "One exemplary use of MECA is the integration of mergers and acquisitions."; the system comprising a user interface a layer of merger application logic services ([0055],

"MECA, in one embodiment of the present invention, is an integrated, Web-based platform designed to manage all facets of initiative execution. Executive teams can simultaneously manage any number of critical initiatives, of any size. Via MECA's easy-to-use Web interface, users

create, browse and manage action plans, team structures, and reports.”);  
and

tools for sales-related synergies of at least one of the organizations ([0002], “The present invention relates to methods, systems, software and tools to direct and manage enterprise wide activities or initiatives, for example, mergers, reorganizations, and/or other enterprise-wide strategic change or other activities.”)

wherein the system further comprises one or more interfaces for sales integration ([0037],

“In post-merger integration, for example, MECA enables management to achieve more revenue and cost synergy targets, and to achieve them more rapidly, predictably, and completely.)

See Also ([0055],

“MECA, in one embodiment of the present invention, is an integrated, Web-based platform designed to manage all facets of initiative execution. Executive teams can simultaneously manage any number of critical initiatives, of any size. Via MECA's easy-to-use Web interface, users create, browse and manage action plans, team structures, and reports.”)

account transitions ([0265], “Implement hundreds of procedural changes and dozens of IT transitions”), file sharing, discussions ([0039], “Use MECA to centrally capture and communicate strategic objectives.”), deliverables ([0037], “MECA enables

management to achieve more revenue and cost synergy targets [i.e. deliverables] "), and calendars ([0208], "Action management teams 20 may typically be composed of: (1) Action directors (AD) who define an action in business terms: desired outcomes, time-frames [calendar]").

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanches (US PG PUB 2003/0018510), in view of Minow et al. (US PG PUB 2003/0225652), hereinafter referred to as Minow. The references disclosing the functionality of Sanches have been set forth above.

16. Regarding **Claims 8-9:**

Sanches discloses a system for planning a merger of at least two organizations as applied above in the rejection of claims 1-7 under 35 U.S.C. 102(a); the system comprising a synergy realization user interface ([0055],

"MECA, in one embodiment of the present invention, is an integrated, Web-based platform designed to manage all facets of initiative execution. Executive teams can simultaneously manage any number of critical initiatives, of any size. Via MECA's easy-to-use Web interface, users create, browse and manage action plans, team structures, and reports.") And see also, ([0037],

"As the strategic benefit, MECA maximizes and accelerates returns from strategic initiatives. In post-merger integration, for example, MECA enables management to achieve more revenue and cost synergy targets, and to achieve them more rapidly, predictably, and completely.")

the synergy realization user interface including a synergy targets section ([0037], MECA enables management to achieve more revenue and cost synergy targets"); wherein

the synergy realization interface further comprises a section for merger-related alerts, news, and messages ([0247],

"In stage 61 (Notification), MECA provides each participant with repeated, escalating notification of the action Items to perform. MECA notifies Action participants by sending short messages via e-mail, pager, HTTP, voice-mail, or other communications media based on individual user preferences.");

the synergy targets section including a synergy and an initiative ([0037],

MECA enables management to achieve more revenue and cost synergy targets");

the synergy realization interface further including one or more links ([0049], "MECA dynamically links people, plans, & action performance in a single, Web-based, execution framework") and a sub-deliverables section including sub-deliverables and deadlines ([0031], "adjusting the timing, sequence, or targeting of individual or collective tasks based on those outcomes"), but Sanches does not explicitly disclose that the system utilizes a risks section including a risk level impact.

However, Minow teaches a system as above utilizing a risks section including a risk level impact ([0067], "Board scores may be correlated with performance scores in the manner illustrated in Table 2, below, to arrive at overall, forward-looking, investment and risk-oriented letter grades.")

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system and method of Sanches so as to have included utilizing a risks section including a risk level impact, as taught by Minow, in order to improve the efficiency of the system, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

17. Regarding **Claim 10**:

Sanches discloses the system of claim 8 further comprising a panel adapted to present merger-related views ([0047] [circle over (6)] Manage data. View real-time reports on status, progress, outcomes Auto-calculate and compare actual performance to strategic objective targets)

the panel including a link to a file space view, a link to a methodology view, a link to a view of research and reports, and a link to a view of a merger log ([0049], "MECA dynamically links people, plans, & action performance in a single, Web-based, execution framework").

18. Regarding **Claim 11**:

Sanches discloses the system of claim 8 further comprising an interface for a synergy category ([0055],

"MECA, in one embodiment of the present invention, is an integrated, Web-based platform designed to manage all facets of initiative execution. Executive teams can simultaneously manage any number of critical initiatives, of any size. Via MECA's easy-to-use Web interface, users create, browse and manage action plans, team structures, and reports.") And see also, ([0037],

"As the strategic benefit, MECA maximizes and accelerates returns from strategic initiatives. In post-merger integration, for example, MECA

enables management to achieve more revenue and cost synergy targets, and to achieve them more rapidly, predictably, and completely.")

the interface for a synergy category including an identified value, a list of objects, and a checklist of integration issues ([0051], "MECA tightly integrates all five key components of enterprise-wide action: (1) Planning; (2) Organization; (3) Communication; (4) Performance; and (5) Tracking").

the identified value including a financial impact, the list of objects including research information, reports, and financial information ([0155],

"MECA is used when the value of compliance can be at least roughly quantified, and where compliance in the action is potentially as important to the organization as compliance with other mandatory systems for financial reporting, HR and account management.")

19. **Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minow et al. (US PG PUB 2003/0225652), hereinafter referred to as Minow, in view of Adhikari (US PG PUB 2004/0158479).**

20. Regarding **Claims 12-13**:

Minow discloses a system comprising:



an interface adapted to present a financial checklist relating to an organization in a merger of at least two organizations ([0038], "a third score is assigned to the company based on merger and acquisition (M&A) decisions made"). See also ([0026],

"FIGS. 6 and 7 illustrate example user interfaces for presenting the results of a method for analyzing company data and projecting future investment value therefrom in accordance with an embodiment of the present invention) and See Also ([0007], "whereby the company is assessed in accordance with an extensive checklist of traditional corporate governance indicators");

the financial checklist including a risk ([0068],

"The correlation scheme of Table 2 assumes that the resulting corporate governance score for each company from step 202 corresponds to one of three overall ratings, "strong," "average," or "poor,"...which in turn implies a certain investment projection and overall investment risk assessment."),

but Minow does not explicitly disclose that the system utilizes a synergy and, the interface including a button adapted to add an item to the checklist, and a button to delete an item from the checklist; and one or more lists of legal data, accounting data, and data internal to at least one of the organizations, and wherein the interface further comprises a synergy type, a synergy title, a synergy owner, and a synergy financial impact.

However, Adhikari teaches that the system utilizes a synergy ([0053],

"In the EBITDA Synergy cell 114, the user enters the anticipated Synergy between the Buyer and the business or the anticipated operating costs changes after the acquisition or merger. The user enters synergy or the cost changes as an increase or decrease in the EBITDA percentage margin.); and

the interface including a button adapted to add an item to the checklist, and a button to delete an item from the checklist; and one or more lists of legal data, accounting data, and data internal to at least one of the organizations ([0088],

"Enabled Advanced Features cells are marked with a square button with an "A" inside. Clicking the "A" icon associated with the following input data set element cells prompts the system to display new pop-up screens; Sales Growth and EBITDA Growth 116, EBITDA Synergy 120); and wherein

the interface further comprises a synergy type, a synergy title, a synergy owner, and a synergy financial impact ([0053],

"In the EBITDA Synergy cell 114, the user enters the anticipated Synergy between the Buyer and the business or the anticipated operating costs changes after the acquisition or merger. The user enters synergy or the cost changes as an increase or decrease in the EBITDA percentage margin").

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system and method of Minow so as to have included utilizing a synergy and an interface including a button, as taught by Adhikari, in order to improve upon the efficiency of the system, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

### ***Conclusion***

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fathi Abdelsalam whose telephone number is (571) 270-3517. The examiner can normally be reached on Monday to Thursday 8:00-5:00pm ET.

23. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

24. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/F. A./  
Examiner, Art Unit 4176  
August 15, 2008

/Gerald J. O'Connor/  
Supervisory Patent Examiner  
Group Art Unit 4176